IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13086 of 2005

Between:

B. Naren Kumar, S/o Lte B.V. Rao,
C-5, Sai Towers, Opp: Law College, Rajahmundry, E.G. District.

..... PETITIONER

AND

1 The Deputy Commissioner of Endowments, Kakinada.
2 The Inspector, Endowments Department, Office of the Asst. Commissioner of Endowments,
Rajahmundry.
3 The Executive Officer, Hithakarini Samajam, Rajahmundry.
4 Challa Shanker Rao, S/o Apparao, Major,
79-8-2, Postal Colony, Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction one in the nature of writ of certiorari calling for the records in and relating to order dated 25-5-2005 made in Rc.No. A4/4726/05 in of 1st respondent herein in so far as the 4th respondent concerned and quash the same as arbitrary, illegal, improper, un-constitutional and violative of the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.V.V.N.NARASIMHAM

Counsel for Respondent Nos.1 to 3: THE ADVOCATE GENERAL

GP FOR ENDOWMENTS

Counsel for respondent No.4: BADANA BHASKARA RAO

The Court made the following :

ORDER:

The petitioner is a resident of Rajahmundry. Aggrieved by the proceedings of the first respondent, dated 25.05.2005, appointing the fourth respondent and six other persons as nonhereditary trustees of Sri.HithaKarani Samajamam, he filed the present writ petition.

This Court, while admitting the writ petition, suspended the impugned proceedings insofar as the fourth respondent is concerned. The application being W.V.M.P.No.1616 of 2005 is now being moved by the fourth respondent for vacating the interim order. Therefore, the matter was heard and being disposed of at that stage.

The learned counsel for the petitioner, Sri.V.V.N.Narasimham, submits that the fourth respondent is disqualified by being appointed as a Member of the Board of Trustees under Section 19(1)(c) and (f) of the A.P.Charitable & Hindu Religious Institutions and Endowments Act, 1987 ('the Act' for brevity). It is the submission of the learned counsel that by purchasing the property belonging to National Senior Basic School, Rajahmundry, in T.S No.1922, the fourth respondent has acted contrary to the interests of the Endowment. Therefore, he ought not have to be appointed. This has been strongly refuted by the learned Advocate General, Sri.C.V.Mohan Reddy, appearing for respondent Nos.1, 2 and 3.

Be that as it is, the learned counsel for the petitioner, however, does not dispute that any order passed by the Deputy Commissioner appointing a member of Trustees is an order against which a revision can be filed before the Commissioner under Section 92 of the Act. In view of the effective alternative remedy where the petitioner can raise all the questions of fact, it would not be proper for this Court to express any opinion. There is no denial of this.

The learned counsel for the petitioner, however, submits that the interim orders of this Court may be allowed to be in force for some time to enable the petitioner to obtain appropriate orders from the revisional authority by moving a revision petition under Section 92 of the Act. After going through the material placed on record before this Court and hearing the learned counsel for the petitioner and having regard to the provisions of Section 19(1)(c) and (f) of the Act, this Court is not able to accede to the request of the counsel. It shall be open to the petitioner to approach the jurisdictional Commissioner exercising revisional jurisdiction and obtain appropriate interim orders. The interim order therefore, cannot be continued.

Giving liberty to the petitioner, to avail the alternative remedy of revision, the writ petition is accordingly dismissed. If the petitioner moves any application for

interim orders, the Commissioner shall pass appropriate orders on the same day, without in any manner being influenced by any of the observations made hereinabove.

The writ petition, with the above observations, is accordingly dismissed. No costs.

_____

(V.V.S.RAO, J)

01.07.2005

-

Note: Issue C.C by tomorrow.

B/o.

vs

To

1 The Deputy Commissioner of Endowments, Kakinada.
2 The Inspector, Endowments Department, Office of the Asst. Commissioner of Endowments,
Rajahmundry.
3 The Executive Officer, Hithakarini Samajam, Rajahmundry.
4 Two CCs to the G.P. for Endowments, High Court of A.P., Hyderabad(O.U.T)

5 2 CD copies